

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BANK OF AMERICA CORP.
SECURITIES, DERIVATIVE AND
EMPLOYMENT RETIREMENT
INCOME SECURITY ACT (ERISA)
LITIGATION

This document relates to:
Stichting Pensioenfonds ABP, et al. v.
Bank of America Corp., et al.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7-20-12

Master File
No. 09 MDL 2058 (PKC)

ECF CASE

Related File
No. 10 Civ. 02284 (PKC)

STIPULATION AND PROPOSED ORDER

WHEREAS, on January 10, 2011, plaintiffs in the above-captioned action ("Plaintiffs") filed a Third Amended Consolidated Complaint for Violations of the Federal Securities Laws (the "Third Amended Complaint");

WHEREAS, the Third Amended Complaint alleges in paragraphs 223-24 that, *inter alia*, in a press release dated September 15, 2008, Bank of America Corporation falsely stated that its "acquisition [of Merrill Lynch & Co., Inc.] is expected to be accretive to earnings by 2010";

WHEREAS, on July 12, 2012, Plaintiffs provided defendants in the above-captioned action ("Defendants") with a proposed Fourth Amended Consolidated Complaint for Violations of the Federal Securities Laws (the "Fourth Amended Complaint") and requested that Defendants consent to Plaintiffs' filing that complaint;

WHEREAS, on July 17, 2012, Plaintiffs submitted to this Court a letter requesting a pre-motion conference concerning Plaintiffs' request to file a motion for leave to amend the Third Amended Complaint, stating, *inter alia*, that their proposed Fourth Amended Complaint "differs from the operative complaint only in that it

identifies with greater specificity additional false statements” that “relate directly to a matter that has been at issue in Plaintiffs’ action since the filing of their Consolidated Amended Complaint.”

NOW THEREFORE, the parties hereby **STIPULATE** and **AGREE** as follows:

1. Plaintiffs may file the Fourth Amended Complaint, as provided to Defendants on July 12, 2012;
2. Defendants’ time to answer or otherwise respond to Plaintiffs’ Fourth Amended Complaint shall be twenty (20) days following this Court’s decision (including any order and opinion) on the Lead Plaintiffs’ motion for partial summary judgment, filed on June 3, 2012, in *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, Master File No. 09 MDL 2058 (PKC), Dkt. 589; and
3. The parties agree to move that this Court amend the Revised Civil Case Management Plan and Scheduling Order, entered May 30, 2012, and modified by this Court on June 29, 2012, as reflected in the attached Proposed Revised Civil Case Management Plan and Scheduling Order.

Dated: New York, New York
July 19, 2012

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7-20-12
Dated

SO ORDERED.

P. Kevin Castel
P. Kevin Castel
United States District Judge